

REFERENCE TITLE: renewable energy enterprise zones (I)

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2613

Introduced by
Representatives Mason, Prezelski, Senators Miranda, O'Halleran:
Representatives Boone, Hershberger, Lujan, Thrasher

AN ACT

AMENDING SECTION 41-1525.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1525.02; AMENDING SECTIONS 41-1527, 42-12006 AND 42-15006, ARIZONA REVISED STATUTES; RELATING TO ENTERPRISE ZONES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1525.01, Arizona Revised Statutes, is amended to
3 read:

4 41-1525.01. Certification of small manufacturing or small
5 commercial printing businesses; definitions

6 A. Through June 30, 2011, the department of commerce shall annually
7 certify small manufacturing or small commercial printing businesses that
8 qualify for property tax incentives under section 41-1525, subsection E. To
9 qualify under this section:

10 1. A small manufacturing or small commercial printing business must
11 meet the minimum investment requirements prescribed by this paragraph. The
12 investments may be cumulative. A small manufacturing or small commercial
13 printing business shall not include fixed assets purchased from an enterprise
14 zone manufacturing or small commercial printing company already certified
15 under this section. Subject to subsection E of this section, certification
16 is effective on January 1 of the valuation year, as defined in section
17 42-11001, following completion of the required investment. To qualify, the
18 small manufacturing or small commercial printing business must invest at
19 least the following amount, as applicable, in fixed assets in the zone after
20 December 31, 2000:

21 (a) In counties with a population of two hundred fifty thousand
22 persons or more, two million dollars, except as provided in subdivision (b)
23 of this paragraph.

24 (b) In all other counties, and for cities and towns located in
25 counties with a population of two hundred fifty thousand persons or more and
26 that have no portion of the corporate boundaries located within twenty-five
27 air miles from the exterior corporate boundary of the largest city in the
28 county:

29 (i) Cities with a population of eighty thousand persons or more, two
30 million dollars.

31 (ii) Cities and towns with a population of at least fifteen thousand
32 but less than eighty thousand persons and in unincorporated areas of the
33 county, one million dollars.

34 (iii) Cities and towns with a population of less than fifteen thousand
35 persons, five hundred thousand dollars.

36 2. A business initially applying for certification under this section
37 must report the following with supporting documentation to the department of
38 commerce on a form and in a manner prescribed by the department:

39 (a) Business name and mailing address and any other contact
40 information requested by the department.

41 (b) Business location and the enterprise zone in which the business is
42 located.

43 (c) The number of full-time employees at the time of application and
44 the benefits provided to employees.

1 (d) The assessor's parcel number of real property to which class six
2 assessment classification will apply.

3 (e) If available, the assessor's account number for personal property
4 to which class six assessment classification will apply.

5 (f) For the zone location, the gross receipts, gross payroll and
6 average hourly wage paid to employees for the preceding taxable year.

7 (g) A statement of the ownership and description of operations of the
8 zone business.

9 (h) Documentation of the required investment in fixed assets that
10 identifies the fixed assets and establishes the cost of the fixed assets and
11 the time of investment.

12 (i) Documentation that establishes the type and amount of
13 manufacturing or printing activity conducted at the zone location.

14 (j) Ownership and full cash value of real and personal property to be
15 certified.

16 (k) Other information necessary for the management and reporting of
17 this program as determined by the department.

18 B. The department shall not certify any business for qualification for
19 property tax incentives after June 30, 2011. However, certification under
20 this section is valid for five years subject to annual recertification
21 regardless of whether under changing circumstances the business grows beyond
22 ninety-nine full-time employees at the zone location or gross annual receipts
23 of more than four million dollars and regardless of whether the enterprise
24 zone continues in existence if it continues to meet the other eligibility
25 requirements.

26 C. In order to be annually recertified pursuant to subsection B of
27 this section, a small manufacturing or small commercial printing business
28 must continue to meet all the eligibility requirements of this section and
29 must annually report the following and provide supporting documentation to
30 the department of commerce on a form and in a manner approved by the
31 department:

32 1. Information required by subsection A, paragraph 2, subdivisions
33 (a), (b), (d), (e), (f), (i), (j) and (k) of this section.

34 2. Changes in location, ownership and operations of the business in
35 the immediately preceding year.

36 3. The average number of full-time employees at the zone location for
37 the immediately preceding year.

38 D. To qualify for classification as class six property for tax
39 purposes, the certified business must submit a copy of the department's
40 initial certification, and each annual recertification, with a written
41 request to reclassify the property to the county assessor of the county in
42 which the property is located by December 10 OF each year.

43 E. A manufacturer or commercial printer shall submit its application
44 for initial certification or annual recertification to the department not
45 later than October 1 of each year. The department shall notify the

1 appropriate county assessors of all qualified enterprise zone properties
2 located within their county not later than December 1 of each year.

3 F. If a manufacturer or commercial printer moves from the originally
4 certified location, it loses its eligibility. The manufacturer or commercial
5 printer may apply for certification at a new zone location for the remainder
6 of its five years if it meets the minimum investment requirements in fixed
7 assets that were not moved from the prior zone location, meets all other
8 eligibility requirements of this section and has not reached the five year
9 eligibility limit.

10 G. Once a manufacturer or commercial printer establishes the basis for
11 eligibility and the department certifies the manufacturer or commercial
12 printer, the business may change its basis of eligibility during the four
13 remaining years of potential eligibility as long as the manufacturer or
14 commercial printer meets the requirements for the new basis of eligibility.

15 H. If a certified manufacturing or commercial printer business is
16 purchased by another entity or changes by more than twenty per cent of the
17 ownership interest through reorganization, stock purchase or merger, the
18 certification is terminated. The new manufacturer or small commercial
19 printer may apply for certification according to eligibility requirements of
20 this section.

21 I. A small business that was originally certified for a ten year
22 period of property reclassification loses eligibility for any year in which
23 the size limits are exceeded or the business is no longer independently owned
24 and operated.

25 J. The department of commerce shall notify the department of revenue
26 and the county assessor if a certified small manufacturing or small
27 commercial printing business closes, moves from the enterprise zone or fails
28 to maintain its eligibility, and the assessor shall make the appropriate
29 changes to the tax roll.

30 K. The department of commerce may make site visits to a taxpayer's
31 facilities if it is necessary to further document or clarify reported
32 information. The taxpayer must freely provide the access.

33 L. Documents filed with the department of commerce pursuant to this
34 section shall contain either a sworn statement or certification, signed by an
35 officer of the company under penalty of perjury, that the information
36 contained is true and correct according to the best belief and knowledge of
37 the person submitting the information after a reasonable investigation of the
38 facts. If the document contains information that is materially false, the
39 taxpayer is ineligible for the tax benefits under this section and is subject
40 to recovery of the amount of tax benefits allowed in preceding years based on
41 the false information, including penalties and interest.

42 M. The department by rule may prescribe additional reporting
43 requirements for persons who claim a tax benefit pursuant to this section.

44 N. For the purposes of this section:

1 1. "Closely held" means five or fewer individuals own more than fifty
2 per cent of the ownership interest in the company, corporation or
3 partnership.

4 2. "Commercial printing" means producing printed product through a
5 lithographic or flexographic process, from material cut to press size on the
6 premises, transferred with pressure and finished with a process that may
7 include scoring, folding, die cutting, gluing, stamping, embossing or
8 packaging. Commercial printing does not include businesses regulated
9 pursuant to section 42-5065.

10 3. "Family owned" means more than fifty per cent of the ownership
11 interest in the company, corporation or partnership is owned by members of
12 the same family.

13 4. "Fixed assets" means property that is used in operating a business,
14 such as furniture, land, buildings and machinery, and that is not ordinarily
15 converted into cash after they are declared fixed assets.

16 5. "Independently owned and operated" means not more than fifty per
17 cent of the ownership interest in the small manufacturing or small commercial
18 printer business is held by another entity unless the final ownership of the
19 entity is family owned or closely held.

20 6. "Manufacturing" means fabricating, producing or manufacturing
21 products, wares or articles for use from raw or prepared materials and
22 imparting to those materials new forms, qualities, properties and
23 combinations. Manufacturing does not include generating electricity at a
24 facility assessed pursuant to title 42, chapter 14, article 4 **UNLESS THE**
25 **FACILITY GENERATES AT LEAST FIFTY MEGAWATTS OF ELECTRICITY USING RENEWABLE**
26 **ENERGY EQUIPMENT, AS DEFINED IN SECTION 42-14155, THAT IS SUPPLIED THROUGH A**
27 **GRID CONNECTION TO A PUBLIC OR PRIVATE ELECTRIC TRANSMISSION OR DISTRIBUTION**
28 **UTILITY SYSTEM PURSUANT TO A POWER PURCHASE AGREEMENT.**

29 7. "Minority owned business" means an independently owned and operated
30 business of which a majority of the business is owned by African Americans,
31 persons of Hispanic or Latin American ancestry and persons of Native
32 American, Asian or other minority origin or descent.

33 8. "Small commercial printing business" means a minority owned
34 business or a woman owned business or a concern, that is independently owned
35 and operated and employs less than one hundred full-time employees at the
36 location in the enterprise zone when certified by the department of commerce
37 or had gross annual receipts of less than four million dollars in its last
38 fiscal year.

39 9. "Small manufacturing business" means a minority owned business or a
40 woman owned business or a concern, that is independently owned and operated
41 and employs less than one hundred full-time employees at the location in the
42 enterprise zone when certified by the department of commerce or had gross
43 annual receipts of less than four million dollars in its last fiscal year.

44 10. "Woman owned business" means an independently owned and operated
45 business of which a majority of the business is owned by one or more women.

11. "Zone location" has the same meaning prescribed in section 41-1525.
Sec. 2. Title 41, chapter 10, article 2, Arizona Revised Statutes, is amended by adding section 41-1525.02, to read:

41-1525.02. Renewable energy enterprise zones; certification of renewable energy property

A. THE FOLLOWING PROPERTY LOCATED IN AN ENTERPRISE ZONE THAT IS CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION 41-1525.01 BEFORE JULY 1, 2011 SHALL BE ASSESSED AS CLASS SIX PROPERTY AS PROVIDED BY SECTION 42-12006:

1. PERSONAL PROPERTY AND IMPROVEMENTS CONSISTING OF A CENTRAL STATION ELECTRIC GENERATION FACILITY THAT GENERATES AT LEAST FIFTY MEGAWATTS OF ELECTRICITY USING RENEWABLE ENERGY EQUIPMENT, AS DEFINED IN SECTION 42-14155, THAT IS SUPPLIED THROUGH A GRID CONNECTION TO A PUBLIC OR PRIVATE ELECTRIC TRANSMISSION OR DISTRIBUTION UTILITY SYSTEM PURSUANT TO A POWER PURCHASE AGREEMENT.

2. PERSONAL PROPERTY AND IMPROVEMENTS USED EXCLUSIVELY IN THE MANUFACTURING OF RENEWABLE ENERGY EQUIPMENT, AS DEFINED IN SECTION 42-14155.

B. TO QUALIFY UNDER THIS SECTION, THE OWNER OF A CENTRAL STATION ELECTRIC GENERATION FACILITY MUST CERTIFY TO THE DEPARTMENT THAT:

1. IT HAS A GRID CONNECTION TO A PUBLIC OR PRIVATE ELECTRIC TRANSMISSION OR DISTRIBUTION UTILITY SYSTEM IN THIS STATE.

2. IT GENERATES ELECTRICITY DERIVED FROM SOLAR, WIND, FOREST THINNINGS, AGRICULTURAL WASTE, HUMAN REFUSE OR OTHER NONPETROLEUM RENEWABLE SOURCES. ELECTRICITY DERIVED FROM NUCLEAR OR NATURAL GAS STEAM GENERATION OR A NATURAL GAS REFORMER FOR USE IN FUEL CELLS DOES NOT QUALIFY FOR THE PURPOSES OF THIS PARAGRAPH.

C. THE DEPARTMENT BY RULE MAY PRESCRIBE ADDITIONAL REPORTING REQUIREMENTS FOR TAXPAYERS WHO CLAIM TAX BENEFITS PURSUANT TO THIS SECTION.

D. ANY INFORMATION SUBMITTED TO THE DEPARTMENT OF COMMERCE UNDER THIS SECTION IS EXEMPT FROM TITLE 39, CHAPTER 1, ARTICLE 2, IS CONSIDERED CONFIDENTIAL AND IS NOT SUBJECT TO DISCLOSURE EXCEPT:

1. TO THE EXTENT THAT THE PERSON OR ORGANIZATION THAT PROVIDED THE INFORMATION CONSENTS TO THE DISCLOSURE.

2. TO COUNTY ASSESSORS AND THE DEPARTMENT OF REVENUE FOR USE IN TAX ADMINISTRATION.

E. DOCUMENTS FILED WITH THE DEPARTMENT UNDER THIS SECTION MUST CONTAIN EITHER A SWORN STATEMENT OR CERTIFICATION, SIGNED BY AN OFFICER OF THE COMPANY UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IS TRUE AND CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF THE PERSON SUBMITTING THE INFORMATION AFTER A REASONABLE INVESTIGATION OF THE FACTS. IF THE DOCUMENT CONTAINS INFORMATION THAT IS MATERIALLY FALSE, THE PROPERTY IS INELIGIBLE FOR THE TAX INCENTIVES UNDER THIS SECTION AND IS SUBJECT TO RECOVERY OF THE AMOUNT OF TAX REDUCTION ALLOWED IN PRECEDING TAX YEARS BASED ON THE FALSE INFORMATION, PLUS PENALTIES AND INTEREST.

1 F. THE DEPARTMENT MAY MAKE SITE VISITS TO THE PROPERTY IF IT IS
2 NECESSARY TO FURTHER DOCUMENT OR CLARIFY REPORTED INFORMATION. THE TAXPAYER
3 MUST FREELY PROVIDE THE ACCESS.

4 Sec. 3. Section 41-1527, Arizona Revised Statutes, is amended to read:
5 41-1527. Annual reports: department of commerce: department of
6 revenue

7 A. On or before September 30 of each year, the department of commerce
8 shall transmit a report to the governor, the president of the senate, the
9 speaker of the house of representatives and the chairpersons of the senate
10 finance committee and the house of representatives ways and means committee,
11 or their successor committees, and shall provide a copy of this report to
12 the secretary of state and the director of the Arizona state library,
13 archives and public records. The report shall contain the following
14 information:

15 1. The number, size and location of all enterprise zones established
16 as of the end of the preceding fiscal year pursuant to this article.

17 2. The business names, locations, number of employees and amount of
18 compensation paid to employees qualifying for income tax credits as reported
19 to the department pursuant to section 41-1525 in each enterprise zone.

20 3. The amount of capital investment, made during the preceding fiscal
21 year and cumulatively, in each enterprise zone.

22 4. The number of minority owned businesses, woman owned businesses and
23 other small manufacturing businesses certified for property tax incentives
24 pursuant to section 41-1525.01 in the preceding fiscal year and cumulatively,
25 in each enterprise zone, and for each such business:

26 (a) The name and location.

27 (b) The number of employees.

28 (c) The full cash value of the property qualifying for classification
29 as class six pursuant to section 42-12006.

30 B. On or before September 30 of each year, the department of revenue
31 shall transmit a report to the governor, the president of the senate, the
32 speaker of the house of representatives and the chairpersons of the senate
33 finance committee and the house of representatives ways and means committee,
34 or their successor committees, and shall provide a copy of this report to
35 the secretary of state and the director of the Arizona state library,
36 archives and public records. The report shall contain the following
37 information:

38 1. The full cash value and assessed valuation of property classified
39 as class six pursuant to section 42-12006, ~~paragraph~~ PARAGRAPHS 4 AND 5 in
40 each enterprise zone and the assessed valuation of that property if it was
41 not classified as class six.

42 2. The fiscal impact on each taxing jurisdiction for the current tax
43 year of classifying property in enterprise zones as class six rather than in
44 the classification in which it would otherwise be classified.

1 3. The total amount of income tax credits allowed for the preceding
2 taxable year pursuant to sections 43-1074 and 43-1161.

3 Sec. 4. Section 42-12006, Arizona Revised Statutes, is amended to
4 read:

5 42-12006. Class six property

6 For purposes of taxation, class six is established consisting of:

7 1. Noncommercial historic property as defined in section 42-12101 and
8 valued at full cash value.

9 2. Real and personal property that is located within the area of a
10 foreign trade zone or subzone established under 19 United States Code section
11 81 and title 44, chapter 18, that is activated for foreign trade zone use by
12 the district director of the United States customs service pursuant to
13 19 Code of Federal Regulations section 146.6 and that is valued at full cash
14 value. Property that is classified under this paragraph shall not thereafter
15 be classified under paragraph ~~7~~ 8 of this section.

16 3. Real and personal property and improvements that are located in a
17 military reuse zone that is established under title 41, chapter 10, article 3
18 and that is devoted to providing aviation or aerospace services or to
19 manufacturing, assembling or fabricating aviation or aerospace products,
20 valued at full cash value and subject to the following terms and conditions:

21 (a) Property may not be classified under this paragraph for more than
22 five tax years.

23 (b) Any new addition or improvement to property already classified
24 under this paragraph qualifies separately for classification under this
25 paragraph for not more than five tax years.

26 (c) If a military reuse zone is terminated, the property in that zone
27 that was previously classified under this paragraph shall be reclassified as
28 prescribed by this article.

29 (d) Property that is classified under this paragraph shall not
30 thereafter be classified under paragraph 4, ~~or 7~~ 5 OR 8 of this section.

31 4. Real and personal property and improvements that are located in an
32 enterprise zone, that are owned or used by a small manufacturing BUSINESS or
33 A small commercial ~~printer~~ PRINTING business that is certified by the
34 department of commerce pursuant to section 41-1525.01 OR 41-1525.02 and that
35 are valued at full cash value, subject to the following terms and conditions:

36 (a) Property may not be classified under this paragraph for more than
37 five tax years.

38 (b) Property that is classified under this paragraph shall not
39 thereafter be classified under paragraph 3, ~~or 7~~ 5, 8 OR 9 of this section.

40 5. PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE LOCATED IN AN
41 ENTERPRISE ZONE CONSISTING OF A CENTRAL STATION ELECTRIC GENERATION FACILITY
42 THAT GENERATES AT LEAST FIFTY MEGAWATTS OF ELECTRICITY USING RENEWABLE ENERGY
43 EQUIPMENT, AS DEFINED IN SECTION 42-14155, THAT IS SUPPLIED THROUGH A GRID
44 CONNECTION TO A PUBLIC OR PRIVATE ELECTRIC TRANSMISSION OR DISTRIBUTION
45 UTILITY SYSTEM PURSUANT TO A POWER PURCHASE AGREEMENT OR PERSONAL PROPERTY

1 AND IMPROVEMENTS USED EXCLUSIVELY IN THE MANUFACTURING OF RENEWABLE ENERGY
2 EQUIPMENT, AS DEFINED IN SECTION 42-14155, THAT IS CERTIFIED BY THE
3 DEPARTMENT OF COMMERCE PURSUANT TO SECTION 41-1525.02 AND THAT IS VALUED AT
4 FULL CASH VALUE, OR IN THE CASE OF RENEWABLE ENERGY EQUIPMENT, PURSUANT TO
5 SECTION 42-14155, SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

6 (a) PROPERTY MAY NOT BE CLASSIFIED UNDER THIS PARAGRAPH FOR MORE THAN
7 FIVE TAX YEARS.

8 (b) PROPERTY THAT IS CLASSIFIED UNDER THIS PARAGRAPH SHALL NOT
9 THEREAFTER BE CLASSIFIED UNDER PARAGRAPH 3, 4, 8 OR 9 OF THIS SECTION.

10 ~~5-~~ 6. Real and personal property and improvements or a portion of
11 such property comprising a qualified environmental technology manufacturing,
12 producing or processing facility as described in section 41-1514.02, valued
13 at full cash value and subject to the following terms and conditions:

14 (a) Property shall be classified under this paragraph for twenty tax
15 years from the date placed in service.

16 (b) Any addition or improvement to property already classified under
17 this paragraph qualifies separately for classification under this subdivision
18 for an additional twenty tax years from the date placed in service.

19 (c) After revocation of certification under section 41-1514.02,
20 property that was previously classified under this paragraph shall be
21 reclassified as prescribed by this article.

22 (d) Property that is classified under this paragraph shall not
23 thereafter be classified under paragraph ~~7-~~ 8 of this section.

24 ~~6-~~ 7. That portion of real and personal property that is used on or
25 after January 1, 1999 specifically and solely for remediation of the
26 environment by an action that has been determined to be reasonable and
27 necessary to respond to the release or threatened release of a hazardous
28 substance by the department of environmental quality pursuant to section
29 49-282.06 or pursuant to its corrective action authority under rules adopted
30 pursuant to section 49-922, subsection B, paragraph 4 or by the United States
31 environmental protection agency pursuant to the national contingency plan (40
32 Code of Federal Regulations part 300) and that is valued at full cash value.
33 Property that is not being used specifically and solely for the remediation
34 objectives described in this paragraph shall not be classified under this
35 paragraph. For the purposes of this paragraph, "remediation of the
36 environment" means one or more of the following actions:

37 (a) Monitoring, assessing or evaluating the release or threatened
38 release.

39 (b) Excavating, removing, transporting, treating and disposing of
40 contaminated soil.

41 (c) Pumping and treating contaminated water.

42 (d) Treatment, containment or removal of contaminants in groundwater
43 or soil.

44 ~~7-~~ 8. Real and personal property and improvements constructed or
45 installed from and after December 31, 2004 through December 31, 2010 and

owned by a qualified business under section 41-1516 and used solely for the purpose of harvesting, transporting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. The classification under this paragraph is subject to the following terms and conditions:

(a) Property may be initially classified under this paragraph only in valuation years 2005 through 2010.

(b) Property may not be classified under this paragraph for more than five years.

(c) Any new addition or improvement, constructed or installed from and after December 31, 2004 through December 31, 2010, to property already classified under this paragraph qualifies separately for classification and assessment under this paragraph for not more than five years.

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 2, 3, 4, ~~or 5~~ OR 6 of this section.

~~8-~~ 9. Real and personal property and improvements to the property that are used specifically and solely to manufacture from and after December 31, 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent biodiesel and its by-products and that are valued at full cash value. This paragraph applies only to the portion of property that is used specifically for manufacturing and processing one hundred per cent biodiesel fuel, or its related by-products, from raw feedstock obtained from off-site sources, including necessary on-site storage facilities that are intrinsically associated with the manufacturing process. Any other commercial or industrial use disqualifies the entire property from classification under this paragraph.

Sec. 5. Section 42-15006, Arizona Revised Statutes, is amended to read:

42-15006. Assessed valuation of class six property

The assessed valuation of class six property described in section 42-12006 is based on the following percentages to the full cash value or limited valuation of class six property, as applicable:

1. Property described in section 42-12006, paragraphs 1, 2, 3, ~~5,~~ 6, ~~and 7~~ AND 8, five per cent.

2. Property described in section 42-12006, ~~paragraph~~ PARAGRAPHS 4 AND 5:

(a) For primary property tax purposes, five per cent.

(b) Except as provided in subdivision (c), for secondary property tax purposes:

(i) Twenty-five per cent through December 31, 2006.

(ii) Twenty-four per cent beginning from and after December 31, 2006 through December 31, 2007.

(iii) Twenty-three per cent beginning from and after December 31, 2007 through December 31, 2008.

- 1 (iv) Twenty-two per cent beginning from and after December 31, 2008
- 2 through December 31, 2009.
- 3 (v) Twenty-one per cent beginning from and after December 31, 2009
- 4 through December 31, 2010.
- 5 (vi) Twenty per cent beginning from and after December 31, 2010.
- 6 (c) If subdivision (b) is finally adjudicated to be invalid, for
- 7 secondary property tax purposes, five per cent.